

sale to Peoples certain other minor facilities located along the facilities that Natural will no longer lease from Peoples, and lease certain other transmission facilities from Peoples.

4. For the reasons set forth below, we will grant the requested certificate authorizations and abandonment approval, subject to certain conditions.

Background

5. Kinder Morgan is a limited liability company organized and existing under the laws of the state of Delaware. Kinder Morgan does not currently own any pipeline facilities and is not currently engaged in any natural gas transportation operations. However, upon acceptance of the requested certificates of public convenience and necessity to lease and construct interstate pipeline facilities, Kinder Morgan will be a natural gas company subject to the Commission's NGA jurisdiction.

6. Natural's interstate pipeline system includes facilities in Texas, New Mexico, Oklahoma, Kansas, Nebraska, Iowa, Illinois, Louisiana, Arkansas and Missouri. Natural also owns and operates substantial underground storage facilities.

7. In 2005, Peoples sent out a request for proposal to eight interstate pipeline companies expressing Peoples' desire to increase gas supply diversity into Chicago, lessen dependence on Peoples' Crawford Station¹ by providing additional supply access directly to the Calumet region of its system, and increase the reliability of supply in the event of catastrophic interruption of deliveries into Peoples' Chicago distribution system. Peoples accepted the proposal submitted by Kinder Morgan.

8. As a consequence of Peoples' acceptance of Kinder Morgan's proposal, Kinder Morgan states that it held an open season from February 22, 2006 through March 15, 2006, during which it offered capacity on its proposed system at both negotiated and recourse rates to all potentially interested shippers on a non-discriminatory basis. Kinder Morgan states that because Peoples submitted the only bid during the open season, the entire capacity of the proposed Kinder Morgan Project was awarded to Peoples. Kinder Morgan states that it executed a precedent agreement with Peoples for the transportation of 360 MDth per day of gas on a firm basis, at negotiated rates and for a term of ten years with a one-time right for Peoples to extend the service agreement for up to another ten years. The precedent agreement provides for Kinder Morgan's receipt, via its proposed

¹ Peoples currently receives gas at its Crawford Station from Natural via Natural's Crawford mainlines; from Peoples' own Mahomet pipelines which connect to Peoples' Manlove Storage Field near Mahomet, Illinois; and from ANR Pipeline Company, Northern Border Pipeline, Midwestern Gas Transmission Company, Natural Gas Pipeline Company, Trunkline Gas Company and Elwood Energy LLC.

lease of capacity from Natural, of up to 360 MDth per day from Northern Border Pipeline Company (Northern Border) and up to 360 MDth per day from ANR Pipeline Company (ANR). The precedent agreement calls for Kinder Morgan's delivery of up to 360 MDth per day to Peoples.

9. In conjunction with Kinder Morgan's application for authorizations to develop its proposed project outside Chicago, Peoples and Natural are seeking authorizations to change their facility lease arrangements inside Chicago, as described below.

Proposals

Kinder Morgan's Proposed Construction and Lease of Facilities

10. Kinder Morgan's proposed 28.83-mile transportation system is designed to have firm capacity of 360 MDth per day and would extend from a receipt point near Beecher, Illinois to a delivery point near Burnham, Illinois at the Chicago city limits. The system would include 3.1 miles of new 24-inch pipeline that Kinder Morgan would construct and 360 Dth per day of leased capacity in 25.73 miles of existing pipeline facilities owned by Natural in Kankakee, Will and Cook Counties, Illinois. The capacity leased from Natural would include capacity in a 10.09-mile portion of the 36-inch diameter Herscher-Dyer Road pipeline, capacity in a 7.21-mile portion of the 36-inch Calumet Pipeline No. 3 and capacity in the 8.43-mile long, 30-inch diameter North Hayden Lateral.

11. The 3.1 miles of new pipeline facilities would include 2.6 miles of 24-inch diameter mainline that would extend from a proposed Dyer Road meter/regulator station near Chicago Heights in Cook County, Illinois, to an interconnection near Lansing in Cook County, Illinois with Natural's above-referenced Calumet Pipeline No. 3, in which Kinder Morgan also proposes to lease capacity. Kinder Morgan would receive gas at the Dyer Road Station from Natural's above-referenced Herscher-Dyer Road pipeline, in which Kinder Morgan proposes to lease capacity

12. The 3.1 miles of new pipeline facilities also would include 0.5 miles of 24-inch diameter pipeline that would extend from a second proposed meter/regulator station near Crete in Will County, Illinois, to Natural's Herscher-Dyer Road pipeline, in which Kinder Morgan proposes to lease capacity. Kinder Morgan would receive gas from ANR at the Crete Station.

13. Kinder Morgan proposes a third meter/regulator station near Beecher in Kankakee County, Illinois to measure gas delivered by Northern Border into Natural's above-referenced North Hayden Lateral, in which Kinder Morgan also proposes to lease capacity.

14. Kinder Morgan states that the proposed 3.1 miles of new pipeline facilities would run along existing utility corridors, including other pipelines' rights-of-way.

Consequently, Kinder Morgan emphasizes that its proposed new pipeline facilities involve little or no greenfield construction. Further, the three proposed meter/regulator stations at interconnections with Natural, ANR and Northern Border will be adjacent to existing meter stations of those pipeline companies. No compression facilities are proposed.

15. Kinder Morgan estimates the total cost of the proposed new facilities to be \$13.3 million, including overhead, contingency, auxiliary installations under section 2.55(a) of the Commission's regulations and reimbursements that Kinder Morgan will make to interconnecting pipelines. Kinder Morgan states that Natural will rely on its Part 157 blanket certificate to construct the necessary interconnections on its system and a new city gate meter/regulator station at 138th Street and Torrence Avenue near Burnham, Illinois at the Chicago city limits to deliver gas to Peoples. The new 138th Street Station will deliver gas from both Kinder Morgan and Natural to Peoples. While Natural will own and operate the facilities that it constructs, Kinder Morgan will reimburse Natural for its construction costs. Kinder Morgan also will reimburse Northern Border's and ANR's costs of constructing interconnections under their Part 157 blanket certificates.

16. Kinder Morgan states that it will pay Natural \$109,500 per month during the primary term of the proposed capacity lease arrangement. Kinder Morgan emphasizes that its lease of 360 MDth per day of firm capacity from Natural will avoid the construction of 25.73 miles of new pipeline, a part of which would have to be located in congested areas. Kinder Morgan states that the lease agreement with Natural provides for a primary term of ten years, with Kinder Morgan having the unilateral right to extend the lease arrangement for up to an additional ten years upon ten-months written notice to Natural and on a year-to-year basis thereafter. Thus, Kinder Morgan's lease agreement with Natural generally mirrors Kinder Morgan's precedent agreement with Peoples which, as noted above, provides for Peoples to receive service from Kinder Morgan for a primary term of ten years, with Peoples having the unilateral right to extend the term for up to an additional ten years.

17. Kinder Morgan states that, as the lessee, it will control the leased capacity as part of its project and system operations, providing transportation services for its shippers -- both firm and interruptible under proposed Rate Schedules FTS and ITS and in accordance with Kinder Morgan's *pro forma* FERC Gas Tariff, Original Volume No. 1. Kinder Morgan states that it and Natural each will be responsible for scheduling its own services.

18. Kinder Morgan asserts that Natural and its customers will not subsidize the Kinder Morgan Project, as Kinder Morgan's lease payments will fully reimburse Natural for any

costs it incurs as a result of the lease. Kinder Morgan further claims that its lease of capacity from Natural will not cause a decrease in Natural's available capacity because the location of Kinder Morgan's proposed 2.6 miles of 24-inch pipeline, in relation to Natural's existing pipeline facilities, both upstream and downstream, will have the operational effect of enhancing the throughput capabilities of Natural's facilities. Kinder Morgan states that Natural will continue to offer its customers the same amount of capacity and service at the same rates. Kinder Morgan asserts that its proposal, involving the cooperative actions of both Kinder Morgan and Natural, reflects the "straw within a pipe" concept that has been used in the natural gas industry for some time to minimize the construction of new facilities while allowing for the development of new projects.²

19. Kinder Morgan also seeks a blanket construction certificate pursuant to Part 157, Subpart F of the Commission's regulations and a blanket transportation certificate pursuant to Part 284, Subpart G of the regulations in Docket Nos. CP06-456-000 and CP06-457-000, respectively.

**Natural's Proposal to Implement Restructured Lease Agreement
with Peoples**

20. Natural currently leases a number of facilities from Peoples under certificate authorizations granted by the Commission since 1970. Peoples has decided that it wishes to again operate most of the facilities in the Calumet area of Chicago as part of its local distribution system in order to receive and control the supply of gas to be delivered to Peoples by Kinder Morgan. Natural has decided that it desires to maintain only the lease of facilities within Chicago necessary to maintain its deliveries of gas to Peoples and Northern Indiana Public Service Company. Therefore, Natural and Peoples have agreed that Natural will seek authority pursuant to section 7(b) of the NGA to abandon its certificate authorizations for the lease of Peoples' facilities. However, Natural and Peoples have further agreed that Natural will continue to lease the Crawford area facilities and some of the Calumet area facilities that it currently leases from Peoples. Therefore, Natural and Peoples have entered into a new lease agreement, dated April 5, 2006, with respect to these facilities, and Natural is seeking new certificate authority to implement the new agreement for its lease of these facilities.

21. Under the restructured arrangement, Natural will no longer lease: (1) the portion of the Calumet Line No. 1 from the 138th Street Station to 112th Street Station; (2) the portion of Calumet Line No. 2 from the 112th Street Station to Calumet Station, including the tunnel under the Calumet River at 100th Street; (3) the Calumet Line No. 2 meter facilities at Calumet Station; (4) the portion of Calumet Line No. 3 from the city limits to

² *Citing Horizon Pipeline Company, L.L.C.*, 96 FERC ¶ 61,053 (2001) (also involving a lease of pipeline capacity in the Chicago market area).

Calumet Station, including the tunnel under Calumet River at 124th Street; and (5) the delivery points located along these pipeline facilities.

22. Natural also seeks authority to abandon by sale to Peoples minor facilities it owns along the lines that Natural will no longer lease. These facilities are: (1) four 16-inch meter tubes and appurtenances at Calumet Station (98th Street) which measure gas coming into Calumet Station from Calumet Line No. 3; (2) a 4-inch positive and a 4-inch turbine meter at 122nd Street and Hoxie Avenue and appurtenances on Calumet Line No. 3; (3) a 6-inch turbine meter and appurtenances at a tap serving Ford Motor Company on Calumet Line No. 3; and (4) approximately 50 feet of 36-inch pipeline on the portion of Calumet Line No. 3 immediately downstream of the new 138th Street city gate station (proposed by Kinder Morgan as part of its above-described project) and Peoples' downstream existing pipeline.

23. Peoples' and Natural's April 5, 2006 lease agreement provides for Natural to continue leasing and operating the following facilities owned by Peoples: (1) the approximately 630-foot portion of the 24-inch diameter Calumet Line No. 1 from the Chicago city limits to 138th Street Station; (2) approximately 3.85 miles of the 24-inch diameter Calumet Line No. 2 from the 138th Street Station to 112th Street Station; (3) the 0.33-mile long, 14-inch diameter 112th Street Lateral extending from Calumet Line No. 2 at 112th Street to the Illinois-Indiana border; (4) the 0.95-mile long 134th Street Lateral including 10-inch and 20-inch diameter pipeline extending from Calumet Line No. 2 at 134th Street to the Illinois-Indiana border; (5) the Crawford System, which includes Crawford Lines No. 1, 2 and 3, totaling 1.18 miles of pipeline that includes 10-inch, 24-inch, 36-inch and 42-inch diameter pipeline extending from the city limits west of Cicero Avenue to the property line of the Crawford Station; and (6) Crawford Station, approximately 1.37 miles of gas main ranging in diameter from 24 inches to 42 inches.

24. Natural states that the April 5, 2006 lease agreement continues the same methodology for the calculation of annual lease charges as the current lease agreement, under which Natural has paid Peoples an annual lease payment based on the depreciated cost of the leased facilities.

25. Natural states that the primary term of the new lease agreement is to become effective on the date on which Kinder Morgan commences service. The new lease term will end on the 31st of the second December after the effective date, inclusive of the commencement and ending dates, and then automatically extend in one-year increments until terminated by either Peoples or Natural.

26. Natural states that its proposal to restructure its new lease agreement with Peoples is contingent upon Natural and Kinder Morgan receiving and accepting the requisite authorizations for Kinder Morgan to construct facilities and lease capacity from Natural. Otherwise, Natural requests that its application to restructure its lease agreements with

Peoples be deemed withdrawn, thereby allowing the existing lease agreements, as amended, and related Commission authorizations to remain in effect.

Notices and Interventions

27. Notice of Natural's application in Docket No. CP06-454-000 was published in the *Federal Register* on September 29, 2006 (71 *Fed. Reg.* 57,495). Timely, unopposed motions to intervene were filed by Peoples, Nicor Gas, North Shore Gas Company and FPL Energy, LLC.³

28. Notice of Kinder Morgan's applications in Docket Nos. CP06-455-000, CP06-456-000 and CP06-457-000 was published in the *Federal Register* on September 29, 2006 (71 *Fed. Reg.* 57,493). Timely, unopposed motions to intervene were filed by Peoples,⁴ Nicor Gas, North Shore Gas Company and County of Kankakee, Illinois.

29. Notice of Natural's application in Docket No. CP06-458-000 was published in the *Federal Register* on September 29, 2006 (71 *Fed. Reg.* 57,494). Timely, unopposed motions to intervene were filed by Peoples, Nicor Gas, North Shore Gas Company and FPL Energy, LLC.

Discussion

30. Since the applications pertain to facilities used for the transportation of natural gas in interstate commerce subject to the jurisdiction of the Commission, Kinder Morgan's and Natural's proposals are subject to the requirements of subsections (b), (c), and (e) of section 7 of the NGA.

Certificate Policy Statement

31. On September 15, 1999, the Commission issued its Certificate Policy Statement to provide guidance as to how proposals for certificating new construction will be

³ Timely motions to intervene are granted by operation of Rule 214 of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.214 (2006).

⁴ Peoples' motion to intervene included comments requesting that the Commission require Kinder Morgan to make changes to its *pro forma* tariff to address a variety of issues. On October 31, 2006, Kinder Morgan filed an answer to Peoples' comments and agreed to revise certain sections of its tariff. On November 2, 2006, Peoples withdrew its comments.

evaluated.⁵ The Certificate Policy Statement established criteria for determining whether there is a need for a proposed project and whether the proposed project will serve the public interest. Specifically, the Certificate Policy Statement explains that the Commission, in deciding whether to authorize the construction of new pipeline facilities, balances the public benefits against the potential adverse consequences. Our goal is to give appropriate consideration to the enhancement of competitive transportation alternatives, the possibility of overbuilding, subsidization by existing customers, the applicant's responsibility for unsubscribed capacity, the avoidance of unnecessary disruptions of the environment and the unneeded exercise of eminent domain in evaluating new pipeline construction.

32. Under this policy, the threshold requirement for existing pipelines proposing new projects is that the pipeline must be prepared to financially support the project without relying on subsidization from the existing customers. The next step is to determine whether the applicant has made efforts to eliminate or minimize any adverse effects the project might have on the applicant's existing customers, existing pipelines in the market and their captive customers, or landowners and communities affected by the route of a new pipeline. If residual adverse effects on these interest groups are identified after efforts have been made to minimize them, the Commission will evaluate the project by balancing the evidence of public benefits to be achieved against the residual adverse effects. This is essentially an economic test. Only when the benefits outweigh the adverse effects on economic interests will the Commission then proceed to complete the environmental analysis where other interests are considered.

Kinder Morgan Project – Docket Nos. CP06-454-000 and CP06-455-000

1. Leased Capacity

33. In addition to proposing to construct 3.1 miles of new pipeline facilities, Kinder Morgan proposes to lease capacity in 25.73 miles of pipeline owned by Natural, as described above. Where an applicant proposes to lease capacity on another pipeline, the Commission's practice has been to approve the lease if it finds that: (1) there are benefits from using a lease arrangement; (2) the lease payments are less than, or equal to, the lessor's firm transportation rates for comparable service on a net present value basis; and (3) the lease arrangement does not adversely affect existing customers.⁶ We find, as

⁵*Certification of New Interstate Natural Gas Pipeline Facilities* (Certificate Policy Statement), 88 FERC ¶ 61,227 (1999), *order on clarification*, 90 FERC ¶ 61,128 (2000), *order on clarification*, 92 FERC ¶ 61,094 (2000).

⁶ *See, e.g., Texas Gas Transmission, LLC.*, 113 FERC ¶ 61,185 at P 10 (2005).

demonstrated below, the lease agreement between Kinder Morgan and Natural satisfies these requirements.

2. Subsidization

34. As noted above, the threshold requirement for pipelines proposing new projects is that the pipeline must be prepared to financially support the project without relying on subsidization from its existing customers. In the case of a new pipeline company that has no existing customers, such as Kinder Morgan, this threshold requirement is met.

3. Adverse impacts

35. Once the Commission determines that a proposed project will not be subsidized by existing shippers, the Commission considers the effect the project will have on the pipeline's existing customers, competing pipelines and their captive customers, and landowners and communities along the proposed route of the pipeline project.

36. Kinder Morgan has no existing customers and its proposal will not adversely affect existing pipelines which serve the region or their customers. The proposed interconnecting pipelines -- Natural, Northern Border, and ANR -- are all currently serving Peoples' Chicago market via Peoples' Mahomet pipelines which deliver gas to Peoples' Crawford Station and will continue to do so. Additionally, Natural's system was primarily constructed to serve the Chicago market and will continue to do so through Natural's Crawford, Calumet and Howard Street Pipelines. Further, the lease of Peoples' capacity to Kinder Morgan will not adversely affect existing customers because the capacity is already leased by Natural. The Kinder Morgan Project merely enables Peoples to receive supply from Northern Border and ANR at an additional delivery point at Calumet Station.

37. Construction of Kinder Morgan's proposed 3.1 miles of new pipeline facilities will result in only minimal impact to landowners as the pipeline route will run along existing utility corridors, including other pipelines' rights-of-way. Any environmental impacts, of which there should be few, will be mitigated. The rest of Kinder Morgan's proposed system will be capacity leased from Natural. Kinder Morgan states that the five landowners affected have all been contacted and survey permission has been granted by each. Kinder Morgan states that it is committed to working with these landowners in an effort to meet their concerns.

38. As noted above, Kinder Morgan has executed a precedent agreement with Peoples for firm transportation service for 360 MDth per day, for a ten-year term with a one-time

right to extend the term for up to another ten years, at a negotiated rate.⁷ In addition to providing firm gas transportation service for Peoples, interruptible shippers will be able to use capacity on Kinder Morgan when it is not being used by Peoples. Peoples has determined that the project is needed to increase supply diversity into Chicago, lessen its dependence on the Crawford Station by providing additional supply access directly to the Calumet region of its system, and increase reliability of supply in the event of catastrophic interruption of existing deliveries into Peoples' Chicago distribution system.

4. Natural's Lease of Capacity too Kinder Morgan

39. Natural states that the lease payments will fully offset Natural's related costs in providing the leased capacity since the proposed location of the 2.6 miles of pipeline Kinder Morgan is constructing, in relation to Natural's existing pipeline facilities, will have the operational effect of enhancing the throughput capabilities of Natural's existing facilities, providing Natural with the ability to enter into the lease without affecting its ability to maintain its current levels of service. Natural's February 2, 2007 response to the Commission's January 23, 2007 data request states that all of the capacity leased to Kinder Morgan will be downstream of Natural's compressor stations and that pressure support from Kinder Morgan's proposed ANR and Northern Border receipt meters, coupled with the installation of Kinder Morgan's 2.6 miles of 24-inch pipeline, mitigate any need for compression or associated fuel usage on Kinder Morgan's or Natural's system. Natural also states that it does not anticipate any additional gas lost and unaccounted for on its system as a consequence of the lease to Kinder Morgan since Kinder Morgan will be metering deliveries at the proposed ANR and Northern Border receipt points, as well as at the inlet of Kinder Morgan's 2.6 mile, 24-inch pipeline.

40. Natural does not propose to assess an incremental gas fuel charge to provide the lease capacity to Kinder Morgan because the capacity lease will result in no additional fuel requirements. Based on Natural's February 2, 2007 response to the Commission staff's January 23, 2007 data request and the information in Exhibits G and G-1 to Natural's application, the Commission finds that Natural has supported its claim that the capacity lease will not result in additional fuel consumption and will not require it to assess Kinder Morgan for these costs.

41. However, Natural has not made a similar showing with regard to gas lost and unaccounted for. The leased facilities are integrated with the rest of Natural's system. Therefore, Kinder Morgan's related commingled gas would be subject to the same losses

⁷ Consistent with Commission practice, we will condition Kinder Morgan's certificate authority to require that prior to commencement of construction, it execute final contracts for firm transportation volumes equivalent to those represented by its precedent agreements.

suffered by Natural's customers utilizing the rest of its facilities. Under the Commission's policy announced in *Mississippi River Transmission Corporation*,⁸ no transaction can be exempted from a charge for gas lost and unaccounted for. Further, it is inappropriate for Natural to charge its existing customers for lost volumes related to Kinder Morgan's leased capacity. Therefore, to ensure that Natural's existing customers do not subsidize the gas lost and unaccounted for related to the Kinder Morgan lease, Natural must either charge Kinder Morgan for gas lost and unaccounted for consistent with its existing mechanism or impute billing determinates for the Kinder Morgan-related volumes in its calculation of the gas lost and unaccounted for rate component.⁹

42. In sum, there are no capital costs associated with the lease transaction, there will be no reduction of the level of existing services Natural is able to provide, no additional fuel will be required by the lease and we are directing Natural to address gas lost and unaccounted for under the lease. In view of these considerations, we find that Natural's proposed lease transaction satisfies the public convenience and necessity.

43. Based on the discussion above, we find that the Kinder Morgan Project proposal is consistent with the criteria set forth in the Certificate Policy Statement. In summary, as a new pipeline, Kinder Morgan has no existing customers to subsidize the project and there will be no degradation of service for existing customers. Furthermore, the proposed project will have no adverse effect on other pipelines in the region or the captive customers of other pipelines. Finally, by leasing most of the project's capacity, Kinder Morgan has minimized both environmental impacts and any adverse economic effects on landowners. For these reasons, we conclude that the Kinder Morgan Project will provide substantial public benefits without significant adverse impacts. Therefore, consistent with the criteria discussed in the Certificate Policy Statement, we find the public convenience and necessity is satisfied and we authorize the Kinder Morgan Project.

Kinder Morgan's Rate Proposal

1. Initial Rates

44. Kinder Morgan proposes to offer cost-based firm (Rate Schedule FTS) and interruptible (Rate Schedules ITS) open-access transportation services on a non-discriminatory basis under Part 284 of the Commission's regulations. Kinder Morgan states that the proposed cost-based rates reflect a straight fixed-variable (SFV) rate design and postage stamp rates. The transportation rates include both the cost of facilities to be constructed by Kinder Morgan and the cost of the capacity leased from Natural. Kinder

⁸ 98 FERC ¶ 61,119, at p. 61,353 (2002).

⁹ See *Dominion Transmission, Inc. and Texas Eastern Transmission, LP*, 104 FERC ¶ 61,267 (2003) at P 45.

Morgan states that it may offer negotiated rates as an option pursuant to section 31 of the General Terms and Conditions of its *pro forma* tariff.

45. The proposed FTS rates are derived using an annual cost of service of \$3,948,775¹⁰ and annual FTS reservation billing determinants of 4,380,000 Dth based on Kinder Morgan's maximum daily design capacity. The proposed maximum cost-based FTS reservation rate is \$0.90 per Dth. Because the Kinder Morgan system will be a free flowing system with no compression, the initial firm commodity rate is \$0.00 per Dth. The ITS rate is derived at a 100 percent load factor of the FTS rate. Kinder Morgan has not identified any usage determinants associated with its proposed ITS service. The proposed maximum ITS rate is \$0.0296 per Dth. Peoples has executed a precedent agreement with Kinder Morgan for the entire 360,000 dth/d of firm transportation capacity of the project. Peoples has elected negotiated rates and a term of 10 years with the one-time right to extend the term for up to another ten years.

46. The Commission has reviewed the proposed cost of service and proposed initial rates, and generally finds them reasonable for a new pipeline entity. Therefore, we will approve Kinder Morgan's proposed rates, subject to the modifications and conditions imposed below.

2. Lease Capacity

47. The lease agreement provides that Kinder Morgan will lease from Natural 360,000 dth/d of existing capacity in Illinois on a firm basis. The lease is an integral part of the Kinder Morgan Project that will allow Kinder Morgan to avoid the construction of 25.73 miles of new pipeline, part of which would have been located in congested areas, avoiding an estimated \$50 million in capital costs. In addition, Kinder Morgan's lease payment to Natural is equivalent to \$0.01/dth during the primary term of the lease and \$0.015/dth if they elect to extend the lease for an additional ten years. These lease payments are less than the equivalent cost of a firm transportation agreement on Natural's system which would have a maximum 100 percent load factor rate of \$0.1442/dth during the peak period and \$0.1320/dth during the off-peak period based on a haul with an Iowa-

¹⁰ Kinder Morgan's proposed year 1 cost of service consists of \$139,298 of operation and maintenance expenses, \$1,314,000 of annual lease expense, \$666,799 of depreciation expenses, \$1,284,656 of return allowance (at 13 percent rate of return on equity based on a capital structure of 50 percent equity and 50 percent debt, and 6.75 percent cost of debt), \$435,390 of federal income taxes (calculated at a tax rate of 34 percent), \$100,842 of state income taxes (calculated at a tax rate of 7.3 percent) and \$7,790 of taxes other than income taxes, for a total cost of service of \$3,948,775. For year 1, Kinder Morgan reflects a proposed rate base comprising gross plant investment of \$13,335,987, less accumulated depreciation of \$333,400 for a total rate base of \$13,002,587.

Illinois Zone receipt and a Market Zone delivery. For these reasons, we will approve Kinder Morgan's proposed lease payments to Natural.

3. Return on Equity and Capital Structure

48. Although Kinder Morgan has made no firm financing arrangements, Kinder Morgan anticipates that 50 percent of the capital will be furnished by the owners as equity and 50 percent will consist of debt. Assuming this debt level, Kinder Morgan expects to raise approximately \$6.7 million of debt at an effective interest rate of 6.75 percent. Kinder Morgan also proposes a 13 percent return on equity which it states is consistent with the risks associated with the construction and operation of a project of this size which is in effect a single purpose pipeline to deliver gas to one entity and is in line with the equity returns authorized for other companies with a similar capital structure.

49. We find that Kinder Morgan's proposal to finance the instant project is consistent with similarly structured projects recently approved by the Commission.¹¹ In these projects, the Commission approved capital structures in the range of 50 percent debt/50 percent equity and returns on equity of between 13 and 14 percent. Accordingly, we will approve Kinder Morgan's proposed capital structure and rate of return on equity.

4. Interruptible Service Revenue Crediting

50. Kinder Morgan proposes to impute interruptible volumes of 5,000 dth/d in designing its firm transportation rates. The Commission's policy regarding new interruptible services requires pipelines to either credit 100 percent of the interruptible revenues, net of variable costs, to firm and interruptible customers or to allocate costs and volumes to these services.¹² Kinder Morgan's proposal is consistent with the Commission's policy.

5. Rate Changes and Three-Year Filing Requirement

51. If Kinder Morgan desires to revise its approved initial rates or modify its approved facilities prior to placing its facilities into service, it will need to file under

¹¹ See *Cameron Interstate Pipeline, LLC*, 115 FERC ¶ 61,229 (2006), *Dominion South Pipeline Co., L.P.*, 113 FERC ¶ 61,064 (2005) and *Kinder Morgan North Texas Pipeline, L.P.*, 111 FERC ¶ 61,439 (2005).

¹² See, e.g., *Creole Trail LNG, L.P. and Cheniere Creole Trail Pipeline, L.P.*, 115 FERC ¶61,331 at P 27 (2006); *Entrega Gas Pipeline Inc.*, 112 FERC ¶61,177 at P 51 (2005).

NGA section 7(c) for amendment of its certificate authority granted by this order. In that filing, Kinder Morgan will need to provide cost data and the required exhibits supporting any revised rates. After the facilities are constructed and placed in service, Kinder Morgan must make a NGA section 4 filing to change its rates to reflect revised construction and operating costs.

52. Consistent with Commission precedent, the Commission will require Kinder Morgan to file a cost and revenue study at the end of its first three years of actual operation to justify its existing cost-based firm and interruptible recourse rates.¹³ In its filing, the projected units of service should be no lower than those upon which Kinder Morgan's approved initial rates are based. The filing must include a cost and revenue study in the form specified in section 154.313 of the Commission's regulations to update cost of service data. After reviewing the data, we will determine whether to exercise our authority under NGA section 5 to establish just and reasonable rates. In the alternative, in lieu of this filing, Kinder Morgan may make an NGA section 4 filing to propose alternative rates to be effective no later than three years after the in-service date for its proposed facilities.

6. Depreciation

53. Kinder Morgan proposes to utilize a depreciation rate of five percent per year. This rate is consistent with both the term of Kinder Morgan's lease agreement with Natural and the term of Kinder Morgan's gas transportation agreement with Peoples. Under both agreements the primary term is ten years with a one-time option to extend the agreement an additional ten years. In addition, Kinder Morgan's use of straight-line depreciation is consistent with the Commission's Uniform System of Accounts because it is a systematic and rational depreciation method. Therefore, the Commission approves the use of a five percent depreciation rate.

Pro Forma Tariff Issues

1. Segmentation and Pooling

54. Kinder Morgan requests waiver of the Commission's segmentation requirements, stating the limited scope of the Kinder Morgan facilities and the existence of a single delivery point on the Kinder Morgan Project preclude the use of segmentation. Should segmentation become feasible in the future due to a change in the configuration of Kinder Morgan's facilities, Kinder Morgan states it will revise its tariff at that time to address

¹³ See, e.g., *Empire State Pipeline and Empire Pipeline, Inc.*, 116 FERC ¶61,074 at P133 (2006); *Entrega Gas Pipeline Inc.*, 112 FERC ¶61,177 at P 52 (2005).

segmentation. Consistent with prior Commission rulings that segmentation is operationally infeasible on systems with one delivery point,¹⁴ we will approve Kinder Morgan's request for a waiver of the Commission's segmentation requirements under section 284.7(d).

55. Kinder Morgan also requests a waiver of the Commission's pooling requirements, stating the concept of pooling has no applicability on such a limited system as Kinder Morgan's. The Commission will not require at this time that Kinder Morgan incorporate NAESB provisions related to pooling in its tariff. However, NAESB standard 1.3.17 requires that a pipeline must offer pooling on its system if asked to do so. If pooling is requested in the future, Kinder Morgan will have to file a pooling provision proposal under NGA section 4 to become part of its tariff.¹⁵

2. Section 2.2 – Scheduling of Firm Services and Section 20 – Force Majeure

56. General Terms and Conditions (GT&C) section 2.2 of Kinder Morgan's tariff states that Kinder Morgan may decline to schedule and/or may curtail firm service for a variety of reasons. The Commission's policy regarding reservation charge adjustments is that where scheduled gas is not delivered due to a *non-force majeure* or planned maintenance event, the failure was due to the pipeline's conduct and was within its control.¹⁶ In that case, there must be a full reservation charge adjustment as to the undelivered amount. However, the Commission has found that when the pipeline's failure to deliver is due to a *force majeure* or unplanned maintenance event, all parties should share the risk.¹⁷ In this circumstance, the pipeline should provide a partial reservation charge adjustment to the affected firm shippers. We have found that a partial reservation charge adjustment may take the form of covering a portion of the pipeline's reservation rate that is associated with the pipeline's return on equity and associated income taxes or there may be a short grace period (e.g., within the first 10 days of the event) when the pipeline may be excused from providing any credits. However, after the grace period ends, the pipeline is at risk for the entire reservation charge.¹⁸ Kinder

¹⁴ See e.g., *Gulf States Transmission Corporation*, 96 FERC ¶ 61,159 (2001).

¹⁵ See, e.g., *Arkansas Western Pipeline Company*, 78 FERC ¶ 61,250 (1997).

¹⁶ See *Entrega Gas Pipeline Inc.*, 112 FERC ¶ 61,177 at P 58 (2005); *El Paso Natural Gas Co.*, 105 FERC ¶ 61,262 (2003).

¹⁷ *Id.*

¹⁸ See, e.g., *Natural Gas Pipeline Co. of America*, 106 FERC ¶ 61,310 (2004), *order denying reh'g and granting clarification*, 108 FERC ¶ 61,170 (2004). See also *Paiute Pipeline Company*, 109 FERC ¶ 61,139 (2004), *order on reh'g*, 111 FERC ¶ 61,107 (2005).

Morgan is directed to revise section 2.2 of its tariff to incorporate the Commission's policy with regards to reservation charge adjustments.

3. Section 19 – Quality of Gas

57. GT&C section 19.1(h) establishes a minimum heating content of not less than 950 Btus per cubic foot. The section also states that Kinder Morgan may, as operationally necessary, establish and post on its website an upper Btu limit and/or a limit on the dewpoint for receipts on its system to prevent hydrocarbon fallout or to assure that gas will be accepted for delivery into interconnects.

58. The Commission recognizes that the gas quality standards in a tariff must provide sufficient flexibility for the pipeline to act in a timely manner to protect its operational integrity and minimize equipment damage. However, the Commission is concerned that the tariff provisions in section 19.1(h) give Kinder Morgan too much discretion to vary its upper Btu limit or dewpoint limit without providing adequate notice and explanation to its customers. On June 15, 2006, the Commission issued its *Policy Statement on Provisions Governing Natural Gas Quality and Interchangeability in Interstate Natural Gas Pipeline Company Tariffs (Policy Statement)*¹⁹ which provides direction for addressing gas quality and interchangeability concerns and delineates five principles the Commission will use in addressing gas quality issues. If Kinder Morgan believes it is necessary to limit the maximum Btu content or the dewpoint of gas received on its system, it must propose specific limits to be included in its tariff. To the extent it desires flexibility to vary these standards in particular circumstances, then it should include in its tariff a specific mechanism for doing so.

4. Section 30 – NAESB Standards

59. Kinder Morgan's *pro forma* tariff incorporates some of the NAESB standards by reference and includes some of the standards verbatim in the text of the tariff. Kinder Morgan's February 2, 2007 response to the Commission's January 23, 2007 data request states that Kinder Morgan proposes to incorporate several tariff changes identified in the data response when it makes its compliance filing to place its proposed tariff into effect.

60. The Commission believes that Kinder Morgan has complied generally with NAESB standards; however, several standards have not been included in its *pro forma* tariff and several standards it states are incorporated by reference in GT&C section 30 are not listed on Original Sheet No. 225. Kinder Morgan has not complied with the following NAESB definitions or standards: 1.2.6, 1.3.15, 2.3.19, 2.3.31, 4.3.89, 4.3.90, 4.3.91, 4.3.92 and 5.3.60. In its compliance filing Kinder Morgan is ordered to either

¹⁹115 FERC ¶ 61,235 (2006).

incorporate these standards verbatim or by reference. In addition, Kinder Morgan's February 2, 2007 data response states that standards 1.3.16, 1.3.17 and 1.3.18 are incorporated by reference. However, these standards are not included in GT&C section 30. In its compliance filing Kinder Morgan is directed to incorporate these standards by reference in section 30 or to incorporate the standards verbatim in its tariff.

5. Section 31 - Negotiated Rates

61. Kinder Morgan's *pro forma* tariff includes a provision at GT&C section 31 that would allow Kinder Morgan to enter into negotiated rate agreements consistent with Commission policy. Kinder Morgan indicates it will file with the Commission a tariff sheet for each negotiated rate agreement that includes a detailed description of the essential elements of the agreement. Kinder Morgan also states that it will maintain separate records for all revenues associated with negotiated rate agreements and maintain and provide separately identified and totaled volume, billing determinant, rate or surcharge component, and revenue accounting information for its negotiated rate arrangements in any general or limited rate change filing that they make.

62. We will accept the proposed tariff language in section 31 concerning negotiated rate provisions. In certificate proceedings we establish initial recourse rates, but do not make determinations regarding specific negotiated rates for proposed services.²⁰ In order to comply with the Alternative Rate Policy Statement²¹ and our decision in *NorAm Gas Transmission Company*,²² we will direct Kinder Morgan to file its negotiated rate contracts, or numbered tariff sheets, not less than 30 days or more than 60 days, prior to the commencement of service, stating for each shipper the negotiated rate, the applicable gas volume to be transported, and an affirmation that the affected service agreements do not deviate in any material respect from the form of service agreement in Kinder Morgan's *pro forma* tariff. Kinder Morgan must also disclose all consideration received

²⁰ *CenterPoint Energy – Mississippi River Transmission Corp.*, 109 FERC ¶ 61,007 at P 19 (2004); *ANR Pipeline Co.*, 108 FERC ¶ 61,028 at P 21 (2004); *Gulfstream Natural Gas System, LLC*, 105 FERC ¶ 61,052 at P 37 (2003); *Tennessee Gas Pipeline Co.*, 101 FERC ¶ 61,360 at n. 19 (2002).

²¹ *Alternative to Traditional Cost-of-Service Ratemaking for Natural Gas Pipelines and Regulation of Negotiated Transportation Services of Natural Gas Pipelines, Alternative Rate Policy Statement*, 74 FERC ¶ 61,076 (1996), *reh'g and clarification denied*, 75 FERC ¶ 61,024 (1996), *reh'g denied*, 75 FERC ¶ 61,066 (1996); *petition for review denied, Burlington Resources Oil & Gas Co. v. FERC, Nos. 96-1160, et al.*, U.S. App. Lexis 20697 (D.C. Cir. July 20, 1998).

²² 77 FERC ¶ 61,011 (1996).

that is associated with the agreement. Finally, Kinder Morgan must also maintain separate and identifiable accounts for volumes transported, billing determinants, rate components, surcharges and revenues associated with its negotiated rates in sufficient detail so that they can be identified in Statements G, I, and J in any future NGA section 4 or 5 rate case.

6. Peoples' Comments

63. Peoples has a precedent agreement for the entire capacity of the Kinder Morgan Project. In its motion to intervene, Peoples requested that the Commission require Kinder Morgan to make changes to its *pro forma* tariff to address a variety of issues.²³ On October 31, 2006, Kinder Morgan filed an answer to Peoples' comments and agreed to revise certain sections of its tariff. On November 2, 2006, Peoples withdrew its comments. Consequently, we will direct Kinder Morgan, in its compliance filing, to revise the sections of its tariff as agreed to in its October 31, 2006 answer.

Docket No. CP06-458-000

64. As Natural states, Natural's restructured lease of facilities from Peoples in Chicago will continue to provide Natural operation and control of facilities currently used by Natural to make deliveries to Nicor and NIPSCO, two of Natural's largest transportation and storage customers. Moreover, Peoples, another of Natural's largest transportation and storage customers, will continue to receive gas from Natural, so there will be no adverse effect on Peoples or its customers located along the pipelines to be removed from the lease since Peoples will now serve those customers. Natural's new lease arrangements for Peoples-owned facilities in Chicago will therefore allow Natural to continue the same service levels that exist today. We note that there were no protests or comments raising concerns regarding the restructured lease. In view of these considerations, we find that there will be no adverse effect on any customer once the requested authorizations have been granted by the Commission.

Part 284, Subpart G, Blanket Transportation Certificate

65. Kinder Morgan has applied in Docket No. CP06-457-000 for a Part 284, Subpart G transportation certificate, which is generally applicable to all interstate pipelines. A Part 284, Subpart G blanket certificate provides a natural gas pipeline certain automatic NGA section 7 natural gas transportation authorizations for individual customers under the terms of its contract and tariff. Since Kinder Morgan has filed a

²³ Peoples raised issues over tariff language in GT&C sections 4.1, 4.3, 4.4, 6.2(d), 8.4(a), 8.4(b), 9.2(a)(2), 9.4(a), 13.5, 13.13, 16.2(b), 19, 21, 32.9(a)(3) as well as several editorial tariff comments.

proper Part 284 tariff, subject to certain required revisions, as discussed herein, and a Part 284, Subpart G blanket certificate is required for Kinder Morgan to offer the transportation services, the Commission will grant Kinder Morgan the requested Part 284 certificate authorization.

Part 157, Subpart F, Blanket Construction Certificate

66. Kinder Morgan has also applied in Docket No. CP06-456-000 for a Part 157, Subpart F blanket construction certificate, which is generally applicable to all interstate pipelines. A Part 157, Subpart F blanket certificate accords a natural gas pipeline certain automatic NGA section 7 facility and service authorizations and allows it to make several simplified prior notice requests for certain minimal section 7 facility and service authorizations. The Commission will grant Kinder Morgan's request for a Part 157, Subpart F, blanket certificate.

Environmental

67. On October, 13, 2006, we issued a Notice of Intent to Prepare an Environmental Assessment for the Proposed Kinder Morgan Illinois Pipeline Project and Request for Comments on Environmental Issues (NOI). We received no responses to the NOI.

68. Our staff prepared an environmental assessment (EA) for Kinder Morgan's proposal. The EA addresses the purpose and need of the project; land requirements; water resources and wetlands; land use; cultural resources; air quality and noise; and alternatives.

69. Based on the discussion in the EA, we conclude that if constructed and operated in accordance with Kinder Morgan's application and supplements filed November 21, 2006, approval of this proposal would not constitute a major federal action significantly affecting the quality of the human environment. Therefore, as recommended in the EA, this order's authorizations are subject to the conditions contained in the appendix to this order.

70. The Commission on its own motion has received and made a part of the record in this proceeding all evidence, including the application and exhibits thereto, and upon consideration of the entire record,

The Commission orders:

(A) In Docket No. CP06-454-000, Natural is granted permission and approval to abandon, by lease, the subject capacity to Kinder Morgan, under section 7(b) of the NGA, as described in the body of this order and in the application. Natural is required to either charge Kinder Morgan for gas lost and unaccounted for or to impute billing

determinants for the Kinder Morgan-related volumes in its calculation of lost and unaccounted for gas.

(B) In Docket No. CP06-455-000, Kinder Morgan is issued a certificate of public convenience and necessity pursuant to section 7(c) of the NGA, authorizing it to construct and operate facilities and lease capacity in Natural's facilities, as described in the application and in the body of this order and as conditioned herein.

(C) In Docket No. CP06-456-000, Kinder Morgan is issued a blanket construction certificate of public convenience and necessity, pursuant to Subpart F of Part 157 of the Commission's regulations.

(D) In Docket No. CP06-457-000, Kinder Morgan is issued a blanket transportation certificate of public convenience and necessity pursuant to Subpart G of Part 284 of the Commission's regulations.

(E) Construction of the facilities authorized herein shall be completed within one year from the date of a final order in this proceeding in accordance with section 157.20(b) of the Commission's regulations.

(F) Kinder Morgan's certificate authorization issued above is conditioned on Kinder Morgan's:

- (1) executing firm contracts for amounts equivalent to the volumes specified in its precedent agreement prior to commencing construction of the proposed facilities;
- (2) filing actual tariff sheets consistent with the directions in the body of this order not less than 30 days and not more than 60 days prior to commencing service;
- (3) filing either its negotiated rate agreements or a tariff sheet fully describing the transaction no less than 30 days or more than 60 days prior to the commencement of interstate service;
- (4) within three years after its in-service date, making a filing to justify its existing cost-based firm and interruptible recourse rates. In its filing, the projected units of service should be no lower than those upon which Kinder Morgan's approved initial rates are based. The cost and revenue study must be in the form specified in section 154.313 of the regulations to update cost-of-service data. In the alternative, in lieu of such filing, Kinder Morgan may make an NGA section 4 filing to propose alternative rates to be effective no later than three years after the in-service date for its proposed Kinder Morgan Project.

(G) In Docket No. CP06-458-000, Natural is granted permission and approval pursuant to section 7(b) of the NGA to: (a) abandon its lease and operation of certain transmission facilities from Peoples in the city of Chicago, Illinois (Chicago), and (b) abandon, by sale to Peoples, certain minor facilities, as described in the body of this order and in the application. Such abandonment authorization is contingent upon Natural and Kinder Morgan accepting the authorizations granted by this order in Docket Nos. CP06-454-000, CP06-455-000, CP06-456-000, and CP06-457-000.

(H) In Docket No. CP06-458-000, Natural is issued a certificate of public convenience and necessity pursuant to section 7(c) of the NGA, authorizing it to acquire by lease from Peoples the facilities more fully described in the body of this order and in the application.

(I) The certificate authorizations issued above are conditioned on Kinder Morgan's and Natural's compliance with all Commission regulations under the NGA, including but not limited to, Part 154, and sections 157.20(a), (c), (d), (e), and (f) of the Commission's regulations.

(J) The certificate authorizations issued above are conditioned on Kinder Morgan's compliance with the environmental conditions set forth in the Appendix to this order. Kinder Morgan shall notify the Commission's environmental staff by telephone, email and/or facsimile of any environmental noncompliance identified by other federal, state, or local agencies on the same day that such agency notifies Kinder Morgan. Kinder Morgan shall file written confirmation of such notification with the Secretary of the Commission within 24 hours.

By the Commission.

(S E A L)

Kimberly D. Bose,
Secretary.

APPENDIX**Environmental Conditions for the Kinder Morgan Project**

1. Kinder Morgan shall follow the construction procedures and mitigation measures described in its application, including responses to staff data requests, and as identified in the environmental assessment, unless modified by this Order. Kinder Morgan must:
 - a. request any modification to these procedures, measures, or conditions in a filing with the Secretary of the Commission (Secretary);
 - b. justify each modification relative to site-specific conditions;
 - c. explain how that modification provides an equal or greater level of environmental protection than the original measure; and
 - d. receive approval in writing from the Director of the Office of Energy Projects (OEP) before using that modification.
2. The Director of OEP has delegation authority to take whatever steps are necessary to ensure the protection of all environmental resources during construction and operation of the Project. This authority shall allow:
 - a. the modification of conditions of this Order; and
 - b. the design and implementation of any additional measures deemed necessary (including stop work authority) to assure continued compliance with the intent of the environmental conditions as well as the avoidance or mitigation of adverse environmental impact resulting from Project construction and operation.
3. Prior to any construction, Kinder Morgan shall file an affirmative statement with the Secretary, certified by a senior company official, that all company personnel, environmental inspectors, and contractor personnel will be informed of the environmental inspector's authority and have been or will be trained on the implementation of the environmental mitigation measures appropriate to their jobs before becoming involved with construction and restoration activities.
4. The authorized facility locations shall be as shown in the environmental assessment. As soon as they are available, and before the start of construction, Kinder Morgan shall file with the Secretary any revised detailed survey alignment maps/sheets at a scale not smaller than 1:6,000 with station positions for all facilities approved by this Order. All requests for modifications of environmental conditions of this Order or site-specific clearances must be written and must reference locations designated on these alignment maps/sheets.

5. Kinder Morgan shall file with the Secretary detailed alignment maps/sheets and aerial photographs at a scale not smaller than 1:6,000 identifying all route realignments or facility relocations, and staging areas, pipe storage yards, new access roads, and other areas that would be used or disturbed and have not been previously identified in filings with the Secretary. Approval for each of these areas must be explicitly requested in writing. For each area, the request must include a description of the existing land use/cover type, and documentation of landowner approval, whether any cultural resources or federally listed threatened or endangered species would be affected, and whether any other environmentally sensitive areas are within or abutting the area. All areas shall be clearly identified on the maps/sheets/aerial photographs. Each area must be approved in writing by the Director of OEP before construction in or near that area.

This requirement does not apply to extra workspace allowed by the *Upland Erosion Control, Revegetation, and Maintenance Plan*, minor field realignments per landowner needs and requirements which do not affect other landowners or sensitive environmental areas such as wetlands.

Examples of alterations requiring approval include all route realignments and facility location changes resulting from:

- a. implementation of cultural resources mitigation measures;
 - b. implementation of endangered, threatened, or special concern species mitigation measures;
 - c. recommendations by state regulatory authorities; and
 - d. agreements with individual landowners that affect other landowners or could affect sensitive environmental areas.
6. Kinder Morgan shall employ at least one environmental inspector per construction spread. The environmental inspector shall be:
 - a. responsible for monitoring and ensuring compliance with all mitigation measures required by this Order and other grants, permits, certificates, or other authorizing documents;
 - b. responsible for evaluating the construction contractor's implementation of the environmental mitigation measures required in the contract and any other authorizing document;
 - c. empowered to order correction of acts that violate the environmental conditions of this Order, and any other authorizing document;
 - d. a full-time position, separate from all other activity inspectors;
 - e. responsible for documenting compliance with the environmental

- conditions of this Order, as well as any environmental conditions/permit requirements imposed by other federal, state, or local agencies; and
- f. responsible for maintaining status reports.
7. Prior to construction, Kinder Morgan shall file with the Secretary, for review and approval, a noise analysis for the HDD entry and exit locations. This analysis should identify the finalized location of the HDD entry and exit locations on a topographic map and all NSAs within one-half mile of the entry or exit location, the estimated length of time for completion of the drilling work at the HDD site, whether drilling would be done 24 hours per day, the distance and direction of the closest NSAs, the ambient noise and the estimated noise impact at the NSAs at each location along with all noise mitigation which Kinder Morgan would implement during drilling activity to reduce noise at the NSAs as follows: During HDD operations, Kinder Morgan should monitor noise and make all reasonable efforts to restrict noise increases from HDD operations to no more than 10 dBA above ambient if the resulting impact is above 55 dBA.